

FIRST REGULAR SESSION

# SENATE BILL NO. 644

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Read 1st time February 28, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2499S.011

## AN ACT

To repeal sections 311.420 and 311.462, RSMo, and to enact in lieu thereof three new sections relating to the direct wine sales, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 311.420 and 311.462, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 311.185, 311.420,  
3 and 311.462, to read as follows:

**311.185. 1. Notwithstanding any other rule, law, or regulation to  
2 the contrary, any person currently licensed in this state or any other  
3 state as a wine manufacturer may apply for and the supervisor of  
4 alcohol and tobacco control may issue a wine direct shipper license, as  
5 provided in this section, which allows a wine manufacturer to ship up  
6 to two cases of wine per month directly to a resident of Missouri who  
7 is at least twenty-one years of age for such resident's personal use and  
8 not for resale. Before sending any shipment to a resident of Missouri,  
9 the wine manufacturer shall first obtain a wine direct shipper license  
10 as follows:**

11 **(1) File an application with the division of alcohol and tobacco  
12 control; and**

13 **(2) Provide to the division of alcohol and tobacco control a true  
14 copy of its current alcoholic beverage license issued in this state or any  
15 other state, as well as a copy of its winery license from the Alcohol and  
16 Tobacco Tax and Trade Bureau.**

17 **2. All wine direct shipper licensees shall:**

18 **(1) Not ship more than two cases of wine per month to any  
19 person for his or her personal use and not for resale;**

20 **(2) Not use any carrier for shipping of wine that is not licensed**

21 under this section;

22 (3) Only ship wine that is properly registered with the Alcohol  
23 and Tobacco Trade and Tax Bureau;

24 (4) Only ship wine manufactured on the winery premises;

25 (5) Ensure that all containers of beverage alcohol delivered  
26 directly to a resident of this state are conspicuously labeled with the  
27 words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR  
28 OLDER REQUIRED FOR DELIVERY" or labels shall be submitted to the  
29 division of alcohol and tobacco control for preapproval;

30 (6) If the winery is located outside of this state, every wine  
31 direct shipper licensee shall by January thirty-first of each year make  
32 a report under oath to the supervisor of alcohol and tobacco control  
33 setting out the total amount of wine shipped into the state the  
34 preceding year;

35 (7) If the winery is located outside of this state, there shall be  
36 paid to and collected by the division of alcohol and tobacco control all  
37 excise taxes due on the amount to be calculated as if the sale were in  
38 this state at the location where the delivery is made;

39 (8) If the winery is located within this state, provide the division  
40 of alcohol and tobacco control any additional information deemed  
41 necessary beyond that already required for retail sales from the winery  
42 tasting room to ensure compliance with this section;

43 (9) Permit the division of alcohol and tobacco control to perform  
44 an audit of the wine direct shipper licensee's records upon request; and

45 (10) Be deemed to have consented to the jurisdiction of the  
46 division of alcohol and tobacco control or any other state agency and  
47 the Missouri courts concerning enforcement of this section and any  
48 related laws, rules, or regulations.

49 3. The wine direct shipper licensee may annually renew with the  
50 division of alcohol and tobacco control by providing the division of  
51 alcohol and tobacco control all required items provided in subsection  
52 1 of this section.

53 4. Notwithstanding any other law, rule, or regulation to the  
54 contrary, any carrier may apply for and the supervisor of alcohol and  
55 tobacco control may issue an alcohol carrier license, as provided in this  
56 section, which allows the carrier to transport and deliver shipments of  
57 alcohol directly to a resident of Missouri who is at least twenty-one

58 years of age or older. Before transporting any shipment of alcohol to  
59 a resident of Missouri, the carrier shall first obtain an alcohol carrier  
60 license by filing an application with the division of alcohol and tobacco  
61 control.

62 5. All alcohol carrier licensees shall:

63 (1) Not deliver to any person under twenty-one years of age, or  
64 to any intoxicated person, or any person appearing to be in a state of  
65 intoxication;

66 (2) Require valid proof of identity and age;

67 (3) Obtain the signature of an adult as a condition of delivery;  
68 and

69 (4) Keep records of alcohol shipped, which include the license  
70 number and name of the winery or retailer, quantity of alcohol shipped,  
71 recipient's name and address, and an electronic or paper form of the  
72 signature from the recipient of the alcohol.

73 6. The division of alcohol and tobacco control may promulgate  
74 rules to effectuate the provisions of this section. Any rule or portion  
75 of a rule, as that term is defined in section 536.010, RSMo, that is  
76 created under the authority delegated in this section shall become  
77 effective only if it complies with and is subject to all of the provisions  
78 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
79 section and chapter 536, RSMo, are nonseverable and if any of the  
80 powers vested with the general assembly pursuant to chapter 536,  
81 RSMo, to review, to delay the effective date or to disapprove and annul  
82 a rule are subsequently held unconstitutional, then the grant of  
83 rulemaking authority and any rule proposed or adopted after August  
84 28, 2007, shall be invalid and void.

311.420. 1. No person, except carriers regulated by the motor carrier and  
2 railroad safety division of the department of economic development under  
3 chapters 387, 389 and 390, RSMo, shall transport into, within, or through the  
4 state of Missouri any intoxicating liquors in quantities larger than five gallons  
5 unless such person holds a valid license or permit from the supervisor of liquor  
6 control of the state of Missouri to do so. For such license, there shall be paid to  
7 the director of revenue the sum of ten dollars per annum. Application for such  
8 license shall be made to the supervisor of liquor control of the state of Missouri  
9 and each applicant shall submit with his application a bond in the penal sum of  
10 one thousand dollars with sufficient surety to be approved by the supervisor of

11 liquor control, conditioned that he will not violate any provisions of the liquor  
12 control laws of this state or any regulation promulgated under such liquor control  
13 laws, and any violation of such condition shall work a forfeiture of such bond to  
14 the state of Missouri. The license year shall end on June thirtieth, and the  
15 applicant shall pay as many twelfths as there are months, with each part of a  
16 month being counted as a month, remaining from the date of the license to the  
17 next succeeding July first. The supervisor of liquor control may issue single  
18 transaction licenses, for which there shall be paid to the director of revenue the  
19 sum of five dollars, and, if the value of the liquor to be transported exceeds one  
20 hundred dollars, the permit shall not be issued until the bond provided for above  
21 in this section is given to the state. No such transporter's license shall be  
22 required of any person licensed by the supervisor of liquor control whose licensed  
23 premises are located in the state of Missouri, nor shall it be necessary to procure  
24 a license to transport liquor purchased from a retail liquor dealer duly licensed  
25 by the supervisor of liquor control of the state of Missouri. No license or permit  
26 shall be required to transport industrial alcohol.

27         2. The qualifications prescribed for the issuance of other licenses by the  
28 provisions of the liquor control law shall not apply to licenses issued under this  
29 section, but no license shall be issued to any person who is not of good moral  
30 character or who has been convicted since the ratification of the twenty-first  
31 amendment to the Constitution of the United States of the violation of any law  
32 applicable to the manufacture or sale of intoxicating liquor, nor to any person who  
33 has had a license from the supervisor of liquor control revoked. If applicant is a  
34 corporation, the managing officer thereof must possess the qualifications  
35 prescribed in this section.

36         **3. Carriers licensed under this section or carriers exempt from**  
37 **holding a permit under this section shall not deliver alcohol to a**  
38 **consumer of this state without obtaining an alcohol carrier license**  
39 **under subsection 4 of section 311.185.**

311.462. 1. [Notwithstanding any other provision of law, an adult  
2 resident or] **A holder of [an] a retailer alcoholic beverage license in this state**  
3 **or a state [which affords Missouri licensees or adult residents an equal reciprocal**  
4 **shipping privilege may] that has entered into a reciprocal shipping**  
5 **agreement with the supervisor of alcohol and tobacco control may**  
6 **apply for and the supervisor of alcohol and tobacco may issue a retail**  
7 **wine direct shipper license, as provided below, which allows them to**

8 ship, for personal use and not for resale, not more than two cases of wine, each  
9 case containing not more than nine liters, per [year] **month** to any [adult]  
10 resident of this state **who is at least twenty-one years of age or**  
11 **older**. Delivery of a shipment pursuant to this section shall [not be deemed to]  
12 constitute a sale in this state. **Before sending any shipment to a resident**  
13 **of Missouri, the retailer must first obtain a retail wine direct shipper**  
14 **license as follows:**

15 (1) **File an application with the division of alcohol and tobacco**  
16 **control; and**

17 (2) **Provide to the division a true copy of its current alcoholic**  
18 **beverage license issued in this or any reciprocal state.**

19 2. [The shipping container of any wine sent into or out of this state under  
20 this section shall be clearly labeled to indicate that the package cannot be  
21 delivered to a person under the age of twenty-one years or to an intoxicated  
22 person.

23 3. No broker within this state may solicit consumers to engage in  
24 interstate reciprocal wine shipments under this section. No shipper located  
25 outside this state may advertise such interstate reciprocal wine shipments in this  
26 state.] **All retail wine direct shipper licensees shall:**

27 (1) **Not ship more than two cases of wine, each case containing**  
28 **not more than nine liters, per month to any person for his or her**  
29 **personal use and not for resale;**

30 (2) **Not use any carrier for shipping of wine that is not licensed**  
31 **under subsection 5 of section 311.185;**

32 (3) **Ensure that all containers of wine delivered directly to a**  
33 **resident in this state are conspicuously labeled with the words**  
34 **"CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER**  
35 **REQUIRED FOR DELIVERY"** or labels shall be submitted to the division  
36 **of alcohol and tobacco control for preapproval;**

37 (4) **Keep records of wine delivered that include the quantity of**  
38 **wine delivered, recipient name and address, and an electronic or paper**  
39 **form of the signature from the recipient of the alcohol;**

40 (5) **If the retailer is located outside this state, every wine direct**  
41 **shipper licensee by January thirty-first of each year, shall make a**  
42 **report under oath to the supervisor of alcohol and tobacco control**  
43 **setting out the total amount of wine shipped into the state the**

44 preceding year;

45 (6) If the retailer is located outside of this state, there shall be  
46 paid to and collected by the division of alcohol and tobacco control, all  
47 excise taxes due on the amount to be calculated as if the sale were in  
48 Missouri at the location where delivery is made;

49 (7) If the retailer is located within this state, provide the  
50 division of alcohol and tobacco control any additional information  
51 deemed necessary beyond that already required for retail sales to  
52 ensure compliance with this section;

53 (8) Permit the division of alcohol and tobacco control to perform  
54 an audit of the retail wine direct shipper licensee's records upon  
55 request; and

56 (9) Be deemed to have consented to the jurisdiction of the  
57 division of alcohol and tobacco control or any other state agency and  
58 the Missouri courts concerning enforcement of this section and any  
59 related laws, rules, or regulations.

60 3. The retail wine direct shipper licensee may annually renew its  
61 license with the division of alcohol and tobacco control by providing  
62 the division of alcohol and tobacco control all required items as stated  
63 in subsection 1 of this section.

64 4. Any person who shall sell to any consumer in this state any  
65 intoxicating liquor without having first procured a license from the  
66 supervisor of alcohol and tobacco control authorizing them to sell such  
67 intoxicating liquor shall be subject to the felony penalties imposed by  
68 subsection 6 of section 311.550.

69 5. All advertising of direct wine sales and shipping to consumers  
70 shall comply with Missouri state statutes and regulations.

71 6. Any retail wine direct shipper who violates any of the  
72 provisions of the liquor control laws or regulations, except where  
73 otherwise provided, shall be subject to disciplinary administrative  
74 actions or criminal penalties under sections 311.680 and 311.880.

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